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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,391	05/09/2001	Yoshiaki Moriyama	46970-5111 (212944)	3429
55694 7590 02/11/2009 DRINKER BIDDLE & REATH (DC) 1500 K STREET, N.W. SUITE 1100 WASHINGTON, DC 20005-1209			EXAMINER LANIER, BENJAMINE	
			ART UNIT 2432	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/851,391

Applicant(s)

MORIYAMA ET AL.

Examiner

BENJAMIN E. LANIER

Art Unit

2432

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-33, 35-40, 42-45, 47-49 and 51-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-33, 35-40, 42-45, 47-49, 51-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 30 January 2009 amends claims 31, 36, 38, 43, 45, 48, 49, and 52. Claims 55-58 have been added. Applicant's amendment has been fully considered and entered.

Response to Arguments

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 55 is objected to because of the following informalities: Remove "a recording step of recording the scramble output on the recording medium" from the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 31-33, 35-40, 42-45, 47-49, 51-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto, EP 938,091, in view of Sogabe, U.S. Patent No. 6,611,534. Referring to claims 31, 38, 45, 49, 55-58, Hashimoto discloses an information recording system wherein data is recorded and encrypted, with copy control information, in different modes to allow for varied copy protection (Col. 7, lines 33-60 & Col. 8, lines 26-45 & Figure 5). When the data is received the copy control information and encryption mode indicator are read from the data header to determine the copy protection that is to be implemented (Col. 8, lines 37-46), which meets the limitation of a discrimination step of discriminating the type of the scramble system of the inputted information signal and the type of the copy control information of the inputted information signal. A determination is made to see whether the source of the content is cognizant or non-cognizant (Figure 18), which meets the limitation of a source determining step of determining a source of the inputted information signal in accordance with a combination of the discriminated type of the scramble system and the discriminated type of the copy control information. The copy control information and the encryption mode indicator are updated prior to the data being encrypted and stored on a recording medium (Col. 9, lines 7-60), which meets the limitation of a scramble system of applying a predetermined scramble system to the inputted information signal and producing a scrambled output when the discriminated type of the scramble system and the discriminated type of the copy control information are in a predetermined combination, and when the source is determined as an authorized one, a recording step of recording the scrambled output on the recording medium. The initially received encrypted content is decrypted by a decryptor and output to the recording/reproducing circuit where it will

be determined if the content can be recorded (Col. 7, lines 41-50), which meets the limitation of a descramble system applying step of applying a predetermined descramble system to the inputted information signal prior to the scramble system applying step applying the predetermined scramble system. When both the copy control information and the encryption mode indicator indicate copy once, the copy control information and the encryption mode indicator are updated to copy prohibited before the data is encrypted and recorded (Col. 9, lines 34-39 & Figure 5), which meets the limitation of wherein a type of the predetermined scramble system is different from that of the scramble system of the inputted information signal, the scramble system applying step applies the predetermined scramble system different from that originally applied to the inputted information signal, to the inputted information signal, without applying the same scramble system as that originally applied to the inputted information, wherein a type of the predetermined scramble system is different from that of a scramble system which a reproduction apparatus applies to information signal recorded in the recording medium by the recording step, the reproduction apparatus being capable of reproducing the recording medium. When the source is determined to be a 'non-cognizant device' and the copy control information is one for permitting only one recording, recording is prohibited (See Figure 18, Non-cognizant device, input CCI = once, cognizant recording ccid/emid = proh), which meets the limitation of wherein the recording step does not record the scrambled output even if the discriminated type of the copy control information is one for permitting only one copy when the source is determined as an unauthorized one, the selected condition includes combinations of a plurality of types of scramble systems applicable to the information signal and a plurality of types of the copy control information to eliminate copying of the information signal via an

unauthorized path. Hashimoto does not disclose that the different scramble modes comprise a plurality of different algorithms, or a plurality of keys used for scrambling. Sogabe discloses a digital content scrambling system wherein the content is scrambled using a plurality of different scrambling keys identified by control data embedded in the data (Col. 8, lines 1-27), which meets the limitation of wherein a plurality of scramble systems are used, the plurality of scramble systems comprising a plurality of keys used for scramble. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the content of Hashimoto to be scrambled utilizing a plurality of different keys as suggested by Sogabe in order to provide a flexible control by partially limiting digital contents instead of limiting the entirety of the content as taught by Sogabe (Col. 1, line 66 - Col. 2, lines 5, 36-49).

Referring to claims 32, 33, 39, 40, 47, 51, Hashimoto discloses that when both the copy control information and the encryption mode indicator indicate copy once, the copy control information and the encryption mode indicator are updated to copy prohibited before the data is encrypted and recorded (Col. 9, lines 34-39 & Figure 5), which meets the limitation of the scramble system applying step applies a scramble system different from that of the information signal recorded on a prerecorded disc to the inputted information signal when the discriminated type of the copy control information of the inputted information signal coincides with that of the inputted information signal recorded on the prerecorded disc and produces the scrambled output, wherein the copy control information permits only one copy of the information signal.

Referring to claims 35, 42, Hashimoto discloses that a decryptor provides decryption of the input data signals (Col. 7, lines 41-44), which meets the limitation of wherein the recording method further comprises a descramble system applying step of applying a predetermined

descramble system to the inputted information signal, wherein the scramble system applying step applies the predetermined scramble system to the inputted information signal after the predetermined descramble system is applied, the predetermined descramble system is restricted to a descramble system corresponding to a scramble system which is previously set.

Referring to claims 36, 43, 48, 52, Hashimoto discloses two different scramble/descramble modes when the copy control information indicate copy once (Figure 31 shows encryption modes of 'once' and 'proh' when the copy control information indicates copy once), which meets the limitation of the descramble system applying step applies two types of the predetermined descramble systems to two types of scramble systems of the inputted information signals respectively, one type of the scramble system of the information signal to which the copy control information permitting only one copy of the information signal outputted from a receiving apparatus (1) in an information recording medium is given, and for permitting only one copy of the outputted information signal to another information recording medium, and another type of the scramble system is a scramble system of the information signal outputted when reproduction is executed from a recording medium to which the copy control information for permitting only one copy of the information signal is given.

Referring to claims 37, 44, Hashimoto discloses that one of the copy protection modes indicated by the copy control information and the encryption mode indicator is copy prohibited (Col. 9, lines 47-60 & Figure 5), which meets the limitation of the scramble system applying step applies only one predetermined scramble system to the inputted information signal, and the only one predetermined scramble system is a scramble system which is applied to the case where

recording information to which copy control information for forbidding copies after the information signal is copied once is given is recorded onto the recording medium.

Referring to claims 53-54, Hashimoto discloses that the EMID for cognizant recording is different based on whether the source is a cognizant device or a non-cognizant device (Figure 18), which meets the limitation of the scramble systems applying step applies a scramble system to the read information in accordance with the determined source so that the applied scramble system is different by the determined source.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN E. LANIER whose telephone number is (571)272-3805. The examiner can normally be reached on M-Th 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Benjamin E Lanier/
Primary Examiner, Art Unit 2432